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January 8, 2021

Via CDX and Electronic Mail

Thomas P. Carroll
Acting Director, Air Enforcement Division
U.S. Environmental Protection Agency
MC 2242A
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: *United States v. Orion Engineered Carbons, LLC*, Consent Decree (Case No. 6:17-cv-01660) – Notice of Intent to Assert Claim of Force Majeure – Eighth Supplemental Update

Dear Mr. Carroll:

Orion Engineered Carbons, LLC (Orion) provides this letter in response to EPA's letters dated April 24, 2020 and October 21, 2020. EPA's April 24 letter requested updates regarding Orion's March 23, 2020 notice of intent to assert force majeure. EPA's April 24 letter requested an initial response within four weeks and supplemental updates every four weeks thereafter. Orion provided its initial response on May 21, 2020 (the "Initial Response") and supplemental updates each month thereafter. This letter is Orion's eighth supplemental update, and it is timely submitted pursuant to the revised deadline in EPA's December 17, 2020 letter.

As extensively detailed in Orion's prior submissions, Orion is using best efforts to continue advancing construction of air pollution controls required by the Consent Decree (CD) as quickly as possible given the significant hurdles COVID-19 presents. To protect workers from COVID-19, Orion has had to take measures to meet its obligations to workers under the Occupational Safety and Health Act and to satisfy applicable OSHA, CDC, and state and local orders and guidance. [REDACTED]

[REDACTED] Orion will continue to closely monitor on-site conditions and undertake best efforts to further mitigate the effects of COVID-19.

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We ask that you treat the redacted portions in the public version of this submittal as confidential business information (CBI) pursuant to 40 C.F.R. Part 2. Orion's updated responses to the questions in EPA's April 24 letter follow.

Ivanhoe

1. Clarify the meaning of the term, "pollution control projects required by the CD at [] Ivanhoe."

No change since Initial Response.

2. Do the PM Early Warning Systems, baghouses and incineration devices necessary to achieve MACT compliance remain operational?

No change since Initial Response.

3. Are any of Orion's [REDACTED] employees working onsite, and if so, how many?

[REDACTED]

4. What activities are the employees performing? Are they making carbon black?

[REDACTED]

5. Provide any updates received from Defendant's contractors related to COVID-19.

See above under item 3.

6. Provide any updates, orders, or directives from state and local officials related to COVID-19.

The following is a brief summary of orders issued since the seventh supplemental update that affect Orion:

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Louisiana

December 4: Governor issues Proclamation 174 extending emergency provisions imposing travel restrictions on public employees, suspending in-person shareholder meetings, and imposing a variety of restrictions on the operations of government entities, among other measures.¹

LDEQ issues Seventeenth Amended Declaration of Emergency and Administrative Order. LDEQ declares that “an emergency exists” and that “measures are necessary to prevent serious threats to life or safety.” The order extends certain regulatory deadlines, among other measures.²

December 22: Governor issues Proclamation 209 keeping Louisiana in Phase 2 of reopening, continuing the statewide mask mandate, and requiring businesses like Orion to maintain at least moderate social distancing between all employees.³

Governor also issues Proclamation 210 extending emergency provisions described above for Proclamation 174.⁴

December 23: LDEQ issues Eighteenth Amended Declaration of Emergency and Administrative Order, extending measures described above for the Seventeenth Amended Declaration of Emergency and Administrative Order.⁵

Additionally, the Governor has made clear that “should there be an increase in the number of confirmed COVID-19 cases or should the number of COVID-19 related

¹ State of Louisiana, Proclamation 174 JBE 2020 (Dec. 4, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/174-JBE-2020-State-of-Emergency-COVID-19-Extension.pdf>.

² Louisiana Department of Environmental Quality, Seventeenth Amended Declaration of Emergency and Administrative Order (Dec. 4, 2020), https://www.deq.louisiana.gov/assets/docs/emergency_declarations/COVID1917thDEAO.pdf.

³ State of Louisiana, Proclamation 209 JBE 2020 (Dec. 22, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/209-JBE-2020-State-of-Emergency-Renewing-COVID-19.pdf>.

⁴ State of Louisiana, Proclamation 210 JBE 2020 (Dec. 22, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/210-JBE-2020-State-of-Emergency-COVID-19-Extension.pdf>.

⁵ Louisiana Department of Environmental Quality, Eighteenth Amended Declaration of Emergency and Administrative Order (Dec. 23, 2020), https://www.deq.louisiana.gov/assets/docs/emergency_declarations/EighteenthAmendedDEAOCOVID19.pdf.

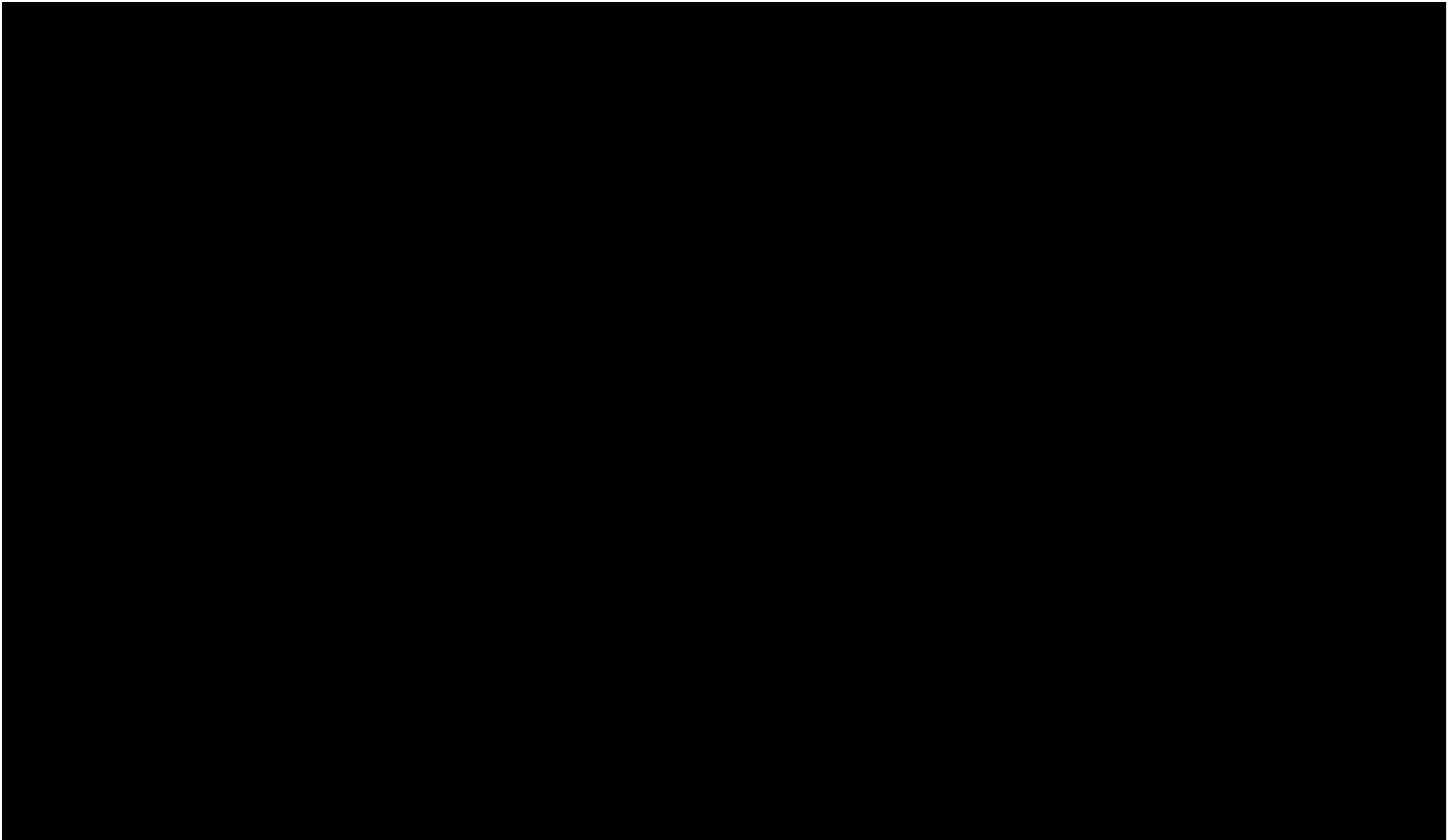
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hospitalizations threaten the ability of the health care system to properly respond, it may be necessary to go back to the full restrictions in the [original] Stay at Home order.”⁶

7. Provide a detailed construction schedule, reflective of the anticipated schedule as of March 1, 2020, (broken out by month), that specifies the work being performed, the number of contractors expected to be on site (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.



⁶ State of Louisiana, Proclamation 209 JBE 2020 (Dec. 22, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/209-JBE-2020-State-of-Emergency-Renewing-COVID-19.pdf>.



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Conclusion

Orion remains committed to working with EPA to adhere to federal and state orders and to protect the health and safety of its employees, contractors, and communities. In accordance with the deadline set forth in EPA's December 17, 2020 letter, Orion will provide its next update by January 29, 2020.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Painter'.

Corning Painter
Chief Executive Officer
Orion Engineered Carbons, GmbH

cc: Kellie Ortega, U.S. Environmental Protection Agency
David Friedland, Beveridge & Diamond, P.C.
Jason Dunn, U.S. Department of Justice
Katherine Abend, U.S. Department of Justice
Celena Cage, Louisiana Department of Environmental Quality
Brandon Williams, Louisiana Department of Environmental Quality
Dwana King, Louisiana